

MINUTES OF THE SOLID WASTE MANAGEMENT BOARD MEETING

Indiana Government Center South
402 West Washington Street
Conference Center Room A -- 1:30 p.m.
Indianapolis, Indiana
November 17, 2009

The meeting was called to order by Mayor William Graham, Chairperson, at 1:32 p.m. The following members were present: Mr. Tom Barnett, Mr. Marlin Chambers, Mr. Chuck Himes, Dr. Ted Niemiec, Mr. Howard Cundiff, Ms. Pam Fisher, Mr. Tom Hohman, Mr. Michael Carnahan and Mr. Jim Murray. Ms. Deborah Albright, Board Counsel, was also present. A quorum was present.

The following Indiana Department of Environmental Management (IDEM) staff members were present: Mr. Thomas Easterly, Commissioner, Mr. Bruce Palin, Assistant Commissioner, Office of Land Quality; Mr. Mike Dalton, Section Chief, Rules Development Branch, Office of Legal Counsel, Mr. Steve Mojonner, Rules Development Branch, Office of Legal Counsel; Ms. Lydia Kuykendal, Rules Development Branch, Office of Legal Counsel; Ms. Janet Pittman, Rules Development Branch, Office of Legal Counsel; Ms. Betsy Rouse, Rules Development Branch, Office of Legal Counsel; Ms. Nancy King, Branch Chief, Rules Development Branch, Office of Legal Counsel; Ms. Ann Long, Attorney, Office of Legal Counsel, and Ms. Daniela Klesmith, Permits Branch, Office of Land Quality.

APPROVAL OF MINUTES

Mayor Graham asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of September 15, 2009. There being none, Mayor Graham asked for a motion to approve the minutes. Mr. Chambers so moved and Dr. Niemiec seconded. The motion passed unanimously.

IDEM BRIEFING

Mr. Palin welcomed Mr. Jim Murray, Director of the Bartholomew County Solid Waste Management District, to the Board. Mr. Murray will represent the Solid Waste Management Districts.

RULES BRIEFING

Mr. Mike Dalton distributed the new project list, which added the 2010 Draft List of Impaired Waters as an Indiana Register publication. Also, LSA #09-613 concerning Academic Lab Waste and #09-671, Illegal Drug Lab Cleanup, have been added to the list.

RULEMAKING ACTION

The board undertook the following rulemaking actions:

- LSA Document #07-468 – Board consideration of readoption of amendments to 329 IAC 9, Delivery Prohibition requirements Mandated by the Underground Storage Tank Compliance Act.

Mayor Graham announced the board consideration of readoption of #07-468, Amendments to 329 IAC 9, Delivery Prohibition requirements Mandated by the Underground Storage Tank Compliance Act. He introduced Exhibit A, the rule for readoption, and Exhibit A-1, IDEM's suggested changes, into the record of hearing.

Mr. Dalton presented the rule to the board as described in the transcript of the meeting and recommended that the board readopt the rule with the proposed changes as presented in Exhibits A and A-1. Please see pages 10 and 11 of the official transcript for Mr. Dalton's verbatim account. Since there were no questions from the board, Mayor Graham asked that a motion be made to Adopt IDEM's suggested changes into the rule. Mr. Hohman so moved and Mr. Chambers seconded. A roll call vote to adopt IDEM's suggested changes as presented was taken and the motion passed unanimously. Mayor Graham then asked for a motion to readopt the rule as amended. Mr. Himes so moved and Mr. Chambers seconded. A second roll call vote was taken and the motion to adopt the final rule as amended passed unanimously.

- LSA Document #06-70 – Public hearing and board consideration of final adoption of new rules amendments to 329 IAC 11, Solid Waste Processing Facilities.

Mayor Graham announced the public hearing to consider final adoption of LSA # 06-70, new rules and amendments at 329 IAC 11, Solid Waste Processing Facilities. He introduced Exhibit B, the proposed rule, and Exhibit B-1, IDEM's suggested changes, into the record of the hearing.

Mr. Mike Dalton informed the board that this rulemaking would not necessitate any additional requirements but would clarify, make consistent, and enhance the organization of the existing rule. For Mr. Dalton's verbatim account, please see pages 14 through 19 of the official transcript.

Mayor Graham then asked for questions from the Board. Ms. Deborah Albright requested clarification of an Indiana Code citation, which was explained by Ms. Ann Long. Please refer to page 19 of the official transcript for a verbatim account of Ms. Long's response.) Mayor Graham then opened the floor to commenter Mr. Bill Paraskevas with the Indiana Chapter of the National Solid Waste Management Association. Mr. Paraskevas distributed a handout to the Board members listing several comments. He stated that the association believed some changes were necessary to avoid confusion in interpretation of the rule upon implementation. Some of the comments pertained to language i.e. "solid waste disposal" versus "solid waste processing." Other comments were related to definitions, financial assurance, revocation of permits, open-air facilities, and 3-sided structures. Please see pages 20 through 40 of the official transcript for a verbatim account of Mr. Paraskevas' presentation. Questions by Board members and discussion with Mr. Paraskevas followed. During the discussion, the board asked Mr. Paraskevas if he had commented at a previous Bd. meeting. He replied that 2 comments were made at the July 21, 2009 SWMB meeting—one appeared in the 10/18/09 proposed rule, but he still felt the need to make additional comments. Additional Board discussion followed regarding pursuing further review of the rule.

Mayor Graham closed the public hearing and asked for final questions or discussion. The Board inquired if IDEM staff could re-consider the comments presented. Mr. Palin deferred to Board Counsel regarding legal options. Ms. Deborah Albright suggested that the Board move to reconsider the proposed rule and IDEM's suggested changes at a subsequent board meeting. Ms. Ann Long stated that the subsequent hearing could be re-noticed if necessary. Additional discussion followed, and Mr. Palin recommended that IDEM review the comments and reconsider the rule. Therefore, Mayor Graham asked for a motion to adopt IDEM's suggested changes into the rule and accept any changes after re-evaluation. Mr. Barnett moved that IDEM reconsider the rule and reconvene at the next regularly-scheduled meeting on January 19, 2010. Mr. Himes seconded. A roll call vote was taken, and the motion to reconsider the rule was passed unanimously. Please see pages 41 through 50 of the official transcript for a verbatim account of this discussion.

- LSA Document #09-206 – Public hearing and board consideration of final adoption of New Rules at 329 IAC 3.1, Exclusion of a Hazardous Waste from Regulation (Delisting).

Mayor Graham announced the public hearing to consider final adoption of LSA # 09-206, new rules at 329 IAC 3.1, Exclusion of a Hazardous Waste from Regulation (Delisting). He introduced Exhibit C, the proposed rule for final adoption, into the record of the hearing.

Ms. Lydia Kuykendal presented the rule to the board as described in the transcript of the meeting and recommended that the board final adopt the proposed rule changes as presented in Exhibit C. She explained that the rule adds 329 IAC 3.1-6-9 to conditionally exclude from regulation under 329 IAC 3.1 (delist) wastewater treatment sludge from electroplating operations, hazardous waste Code F006, that was generated by Rumpke of Indiana, LLC, and placed in corrective action management unit (CAMU) constructed adjacent to Medora Sanitary Landfill, Medora, Indiana. Please see pages 51 through 54 of the official transcript for a verbatim account of Ms. Kuykendal's presentation. Mayor Graham then asked the Board if there were any questions. There were none. He then asked for public comment. There being none, Mayor Graham concluded the hearing. He then asked for a motion to final adopt the rule. Mr. Chambers so moved and Dr. Niemiec seconded. Mayor Graham asked for comments from the Board. There being none, he asked for a roll call vote. The Board final adopted the rule as presented with two abstentions.

- LSA Document #09-613 – Public hearing and board consideration of preliminary adoption of amendments to 329 IAC 3.1, Academic Lab Waste.

Mayor Graham announced the public hearing to consider preliminary adoption of LSA # 09-613, amendments to 329 IAC 3.1, Academic Lab Waste. He introduced Exhibit D, the proposed rule for preliminary adoption, into the record of the hearing.

Mr. Steve Mojonniere presented the rule to the board as described in the transcript of the meeting and recommended that the board preliminarily adopt the rule as presented in Exhibit D. He explained that this rule incorporates by reference one amendment to the Hazardous Waste Rules that was published by the Environmental Protection Agency (EPA) December 1, 2008. He also stated that it would establish an alternative set of generator requirements applicable to laboratories owned by colleges and universities. For a verbatim account of Mr. Mojonniere's presentation, please see pages 56 through 59 of the official transcript.

Mayor Graham then asked the Board if there were any questions. A board discussion followed. Questions were raised by Board members inquiring about the destination of the lab waste if it is exempt from the hazardous waste. Mr. Mojonniere responded that it wasn't exempt; and that their laboratory management plan (reduced handling requirements) is followed. Also discussed was the affiliation agreement for a nonprofit research institute, no boundary restrictions, if rule not adopted, then they will have to comply with the 262 generator standards.

No public comments were presented during the public hearing. Mayor Graham closed the public hearing and the board deliberated on preliminary adoption of the rule. Following board consideration, Mayor Graham asked for a motion to preliminarily adopt IDEM's suggested changes as presented. Mr. Himes so moved and Dr. Niemiec seconded. A roll call vote to adopt IDEM's suggested changes as presented was taken and the motion passed unanimously. Mayor Graham then asked for a motion to adopt the final rule as amended. Mr. Himes so moved and Dr. Niemiec seconded. A second roll call vote was taken and the motion to adopt the final rule as amended passed unanimously.

OPEN FORUM

Mayor Graham invited public comment on topics of interest and potential rulemakings regarding Title 329 Indiana Administrative Code. There were no public comments.

ADJOURNMENT

Mayor Graham adjourned the meeting at 2:46 p.m.

NEXT MEETING SCHEDULED

The next meeting is scheduled for Tuesday, January 19, 2010, at 1:30 p.m. at the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.